

### **REMARKS**

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested. Moreover, the Applicant has reviewed the Final Office Action of November 8, 2005, and submits that this paper is responsive to all points raised therein.

#### **Status of the Claims**

Claims 1-7, 9-13, 15-36, 38, 39, 41-43, 45-65 and 67-90 are presently pending. Claims 1, 2, 15, 19, 20, 25, 32, 33, 36, 39, 43, 46, 47, 52, 57, 61, 67, 70, 75, 80, 86 and 90 have been amended.

#### **Rejections Under 35 USC 103(a)**

Reconsideration is requested of the rejection of claims 1, 5, 9, 12, 13, 15, 17, 19, 23, 26, 29-32, 34, 36, 38, 39, 41-43, 45, 46, 50, 53, 56, 57, 59, 61, 62, 65-68, 73, and 76-81 under §103(a) as being obvious in view of the combined teachings of Jones (U.S. Patent 5,022,783) (Jones '783) and Wynings (U.S. Patent No. 6,585,451) (Wynings '451).

The subject matter of a claim is *prima facie* obvious in view of particular references if the Office can demonstrate that (1) the references, alone or together, describe every element of the claims, (2) there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine the references, and (3) there is some reasonable expectation of success.<sup>1</sup>

Each of the independent claims, claims 1, 19, 36, 39, 43, 46, 61, and 80, has been amended to elaborate on the fluid transport system of the claimed apparatus. Specifically, claims 1 and 46 have been amended to recite that the conduit extends from a fluid source, is received by a member, such as a bar member (claim 1), and includes at least one subline branching from it. And, claims 19, 36, 39, 43, 61, and 80 have been amended to recite that the conduit extends from a fluid source, through a handle, and at least to the receiver portion.

The conduit is *positioned to provide fluid to the roller, the concrete, or both* in order to *facilitate the release of the roller from the concrete*. Each of the independent claims also recites that the apparatus includes a roller, a receiver portion for receiving the roller, and structures at the *oppositely disposed ends* of the receiver portion, i.e., retainers, holder mechanisms, or holders, which correspond to the *oppositely disposed ends* of the roller, for holding *separate*, adjustable sets of weights. Importantly, these separate, adjustable sets of weights allow the roller to be adjustably weighted *at its ends* in order to accommodate the various degrees of tightness encountered when working *wet* concrete.

Jones '783, as exemplified in the preamble of the first and only claim, is directed to an apparatus for working uncured concrete not wet concrete. By definition, uncured concrete is concrete that has hardened or tightened, generally to the point that it cannot be imprinted or stamped. Appropriately, the Jones device comprises blades that cut patterns into uncured concrete. The Jones device also incorporates a vibratory mechanism, which vibrates the drum on which the blades are mounted, resulting in a more effective vibratory cutting of the concrete. The blades effectively saw patterns into the uncured concrete. Nowhere does Jones '783 disclose imprinting or stamping patterns into wet concrete. In fact, Jones '783 states that prior art *stamping* pads are of "limited adaptability to create various patterns on the uncured concrete surface" (Jones, Col. 3, Ln. 55-60). Thus, the Jones reference does not teach the stamping of wet concrete, as required by the claims of the present application.

The Wynings reference, on the other hand, is directed to a hydraulically driven lawn roller comprising two, split rollers positioned side-by-side on the same axle and capable of rotating independently of one another, such that the lawn roller device can make zero radius turns. The zero radius turning feature of the Wynings device is significant in the field of lawn care, as it enables an operator to readily turn the heavy device without damaging the lawn. The Wynings apparatus includes *one* weight bar, which extends the length of both rollers. This weight bar is mounted above the rollers and parallel, but forward of the axle of the rollers. Weights can be removably mounted on the weight bar on either side of the engine, which projects over the central part of the weight bar. Thus, quite significantly, weights are mounted horizontally along the length of the weight bar, up to the entire length of the weight bar (minus the section that is obstructed by the engine). The weight bar has an upstanding flange, and individual weights have slots that fit the flange, so that the weights can be *secured* on the bar. The weights can be removed when not needed, i.e., when using the lawn roller on very loose soil.

The Jones and Wynings references can be distinguished from the present invention, as defined by the claims. Neither the Jones reference nor the Wynings reference discloses an apparatus for "stamping wet concrete." The Wynings reference does not mention concrete at all. The Wynings' patent is directed to an apparatus for rolling down soil (in preparation for laying down a new lawn) or rolling flat an existing lawn. As such, the rollers of the Wynings' apparatus do not include stamps for imparting patterns onto a surface.

---

<sup>1</sup> MPEP §2143.

Furthermore, the removable weights disclosed in the Wynings reference are entirely different from those of the present invention. The weights of the present invention are not stacked horizontally along the length of the roller (and forward of its axis). On the contrary, the present invention includes two retainers or holders, such as vertical posts, at *oppositely disposed ends* of the roller, for (vertically) *stacking* two *separate* sets of weights. Importantly, these separate, adjustable sets of weights of the present invention allow the roller to be adjustably weighted *at its ends*. This allows the user to apply the weights at the ends of the roller. The Wynings device includes *one* horizontal weight bar for mounting weights along the length of the roller, forming a continuous set of weights. Thus, the Wynings device includes a single horizontal weight bar and not separate retainers positioned at opposite ends of the roller to hold weights at opposite ends of the roller. The Wynings device is presumably weighted in this manner because of the nature of the different soil surfaces on which it is used. Analogously, the present invention is quite deliberately weighted at its ends in order to accommodate the various degrees of tightness encountered when working *wet* concrete. Thus, the two weighting mechanisms are hardly interchangeable. Wynings fails to teach or suggest isolating weights at its oppositely disposed ends.

Finally, the Jones' apparatus, as detailed above, comprises blades for cutting patterns into uncured concrete. The Jones' apparatus also includes a *non-activatable, continuous-flow* fluid transport system comprising a container mounted coextensively over the roller to *continuously* release fluid onto the surface of the roller as it rotates to minimize adherence of uncured concrete. The Jones reference in no way contemplates the stamping of wet concrete. Thus, the Jones reference and the Wynings reference, singly or combined, fail to teach all the elements of the present invention, as defined by the claims.

Furthermore, there is no suggestion or motivation to combine the Jones patent, which involves imparting patterns into uncured concrete, with the Wynings patent, which involves rolling earth or soil flat. Concrete stamping and soil rolling or flattening are two distinct arts: the Wynings patent does not so much as mention concrete let alone discuss any art relevant to stamping concrete.

In a related vein, because imparting patterns into (semi-hardened) concrete and soil rolling are so distinct from each other as well as from stamping patterns into wet concrete, there is not a reasonable expectation of success in combining these two references. There is no reasonable expectation that the combination of the *lateral* system of weights disclosed in the Wynings patent, with its application in soil rolling, and the continuous, non-activatable fluid transport system of the

Jones patent, with its application in the cutting of semi-hardened concrete, would be successful in stamping patterns into wet concrete.

Reconsideration is also requested of the rejection of claims 2-4, 6, 7, 10, 16, 18, 20-22, 24, 25, 27, 33, 35, 47-49, 51, 52, 54, 58, 60, 63, 64, 69-72, 82-86, 89 under §103(a) as being unpatentable over Jones (U.S. Patent No. 5,022,783) (Jones '783) in view of Wynings (U.S. Patent No. 6,585,451) (Wynings '451) and Zieger et al. (U.S. Patent No. 5,846,176) (Zieger '176).

Zieger et al. is directed to a concrete-finishing roller tool with a roller mounted in a U-shaped frame. The Zieger device includes a "roller irrigation system," which comprises a water bottle, affixed to the handle of the apparatus, a hose, and a third element referred to only as an "irrigation member," which "terminates in a plurality of conduits." The "irrigation member" is not described much further beyond this. Based on FIG. 3 of the Zieger patent, the irrigation member and its conduits are positioned directly above and in close proximity to the roller. This understanding of the figure is in accordance with the purpose of the Zieger irrigation system, to "continuously moisten the roller body and thereby prevent the accumulation of concrete debris" on the roller. The Zieger device even includes a broom attachment to further aid in the clearing of concrete debris. Thus, the irrigation system of the Zieger device is limited to moistening the roller in order to keep it clear of debris. In contrast, the fluid transport system of the present invention, as defined by claim 1, includes a conduit extending from the fluid source, received by the bar member, and having at least one subline branching from it (and also received by the bar member). This conduit and branching subline configuration allows for fluid to be directed to the roller and even to the concrete, in order to facilitate release of the roller from the concrete. Thus, the configuration and the purpose of the fluid system of the present invention are fundamentally different from the configuration and purpose of the Zieger device.

Furthermore, the fluid source of the Zieger irrigation system is affixed to the handle, which can make the roller heavier and more difficult to operate. In contrast, the fluid source of the present invention is external to the roller, such as in the form of a backpack worn by the user. The Zieger patent also states that the device may further include a hand-controlled water release, such as a finger trigger "that actuates water flow from bottle through hose and into conduits." The finger trigger is not described further beyond this. And, the finger trigger is not illustrated in any of the figures. The patent does not teach how to make such a finger trigger "actuate water" or how to incorporate the finger trigger into the device. These teachings of the Zieger patent fail to remedy the deficiencies of Jones and Wynings with regard to the pending claims. And, nowhere does the

Zieger et al. reference disclose a system of weights, as required by the claims of the present invention. All in all, Zieger fails to teach or suggest a device for stamping wet concrete that includes a roller, retainers at opposite ends of the roller for stacking weights at opposite ends of the roller, and a fluid transport system comprising a conduit and at least one subline branching from the conduit (both received by the bar member).

Thus, the Zieger et al. reference taken singly does not disclose or suggest every element of the above-listed claims. And, because the Jones and Wynings references, taken singly, do not disclose or suggest every element of the above-listed claims, the three references taken collectively do not disclose or suggest every element of the above-listed claims.

Furthermore, with respect to claims 10, 18, 27, 35, 60, and 69, which recite that the stamp of the roller includes a texture or that the stamp includes a layer of urethane rubber, even if Zieger et al. teaches a rubber sheet affixed to a roller, for the reasons stated above, the patent, taken singly, does not disclose or suggest every element of the above-listed claims. And, collectively, the Jones, Wynings, and Zieger et al. references do not disclose or suggest every element of the above-listed claims.

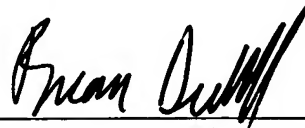
Finally, reconsideration is requested of the rejection of claims 11, 18, 28, 35, 55, 60, 64, 69, 89 under §103(a) as being unpatentable over Jones (U.S. Patent No. 5,022,783) (Jones '783) in view of Wynings (U.S. Patent No. 6,585,451) (Wynings '451) and Brimo (U.S. Patent No. 4,776,723) (Brimo '723).

Brimo is *not* directed to a concrete roller-type apparatus, but rather a much simpler concrete stamping tool that comprises a base member, an inner blade, and an outer blade, but no roller. The tool is molded from urethane rubber and includes a pattern of protruding ridges. The tool is essentially a rubber stamp, and nothing more. Thus, the Brimo patent taken singly does not disclose or suggest every element of the above-listed claims. And, for the reasons previously stated, taken collectively, the Jones, Wynings, and Brimo references do not disclose or suggest every element of the above-listed claims.

Respectfully submitted,

POLSINELLI SHALTON WELTE SUELTHAUS PC

Date: March 8, 2006



Brian B. Diekhoff, Reg. No. 46,353  
100 South Fourth Street, Suite 1100  
St. Louis, Missouri 63102  
Tel: (314) 889-8000  
Fax: (314) 231-1776  
Attorney for Applicant